



State of Tennessee
Department of Commerce and Insurance
Tennessee Real Estate Commission
500 James Robertson Parkway Suite 180
Nashville TN 37243-1151
(615)741-2273, FAX: (615) 741-0313

Approved By:

TREC Log Number

APPLICATION FOR VACATION LODGING SERVICE LICENSE

- ☐ **LICENSE FEE OF \$100.00 (FOR EACH NEW FIRM OR BRANCH OFFICE)**
- ☐ **For Name Change of Existing Firm \$10.00 and Return Current Firm License**

TRANS

FILE ID

NOTE: Each question must be answered completely before any action will be taken on this application. This is a sworn affidavit. False answers or misleading statements could subject your license to suspension or revocation. This application is required of all sole proprietor, limited liability companies, partnerships, corporations, or associations. A zoning letter must be attached to this form for all requests for a new firm application. All changes of name or ownership of the business require a new application and fee. (Additional instructions on page 4).

A change of address of an existing firm requires the filing of a TREC Form1. A new zoning letter must be attached to the form. (This application must be filled out in ink or Typewritten).

1. Firm Name: _____

2. Business Mailing Address: _____
(Street or P. O. BOX)

(County)

(City)

(State)

(Zip Code)

2a. Business Location Address: _____
(Street)

(County)

(City)

(State)

2b. Firm Phone Number: (____) _____ **2c. Firm Email Address:** _____

3. Is this the main office or a branch? _____

4. Is applicant a Sole Proprietor, Limited Liability Company, Corporation, Partnership, Association, or Company? (Circle One) Attach a copy of appropriate organizational documents: corporate charter, partnership agreement.

5. If Corporation, LLC or Partnership; date and state originally organized.
(Date of Organization) (State originally organized in)

C&I Fiscal Services

TREC Received

TREC From Fiscal Services

TREC Computer

TREC Approved

6. If corporation, list all officers, titles, along with their address and phone number. If licensed by the Tennessee Real Estate Commission, provide license numbers.

7. If Partnership, list all partners along with their address and phone number.

8. If Association, explain purpose of Association.

9. State name, address and phone number of all persons who have a financial interest in the business not listed above.

10. If this application is for the purpose of changing the name of the firm, please return old firm license with this form. (A copy of your license should be retained until you receive your new original.)

11. Has the firm, any owner, partner, officer, employee or member thereof been convicted or pled guilty to any crime? (yes or no) If yes, attach separate affidavits of all details.

12. Has the firm, any owner, partner, officer, employee or member thereof ever filed for business or personal bankruptcy? (yes or no) If yes, attach separate affidavits of all details.

13. Have any complaints, civil suits, judgements or attachments ever been filed against the firm, any owner, partner, officer, employee or member? (yes or no) If yes, attach separate affidavits of all details.

14. Has the firm, any owner, partner, officer, employee or member thereof ever held a real estate affiliate (salesman), broker, firm, or any other type of regulated occupational license with this or any other state or federal licensing authority. (yes or no) If yes, attach separate affidavits of all details.

15. Has the firm, any owner, partner, officer, employee or member thereof been refused a license or had a license, suspended, revoked, or reprimanded? (yes or no) If yes, attach

separate affidavits of all details.

16. Will the firm be engaged in the Vacation Lodging Service business exclusively? (yes or no) (If no, give details of other business interest(s) and percentage of time devoted to the Vacation Lodging Service business.)

17. Does the firm understand that it is fully liable for all professional actions of all officers, principals and employees? (yes or no)

18. The Vacation Lodging Services Act requires that one (1) individual be named as the designated agent. The person designated is required to take a Commission approved eight (8) hour course in state law. The course must be completed prior to the license renewal deadline.

DESIGNATED AGENT NAME: _____

STREET ADDRESS : _____

CITY, STATE, ZIP: _____

I the undersigned Designated Agent understand that I must complete the required course in order for the firm to be renewed.

Signature: _____ **Date:** _____

19. OPEN ESCROW ACCOUNT IN THE FIRM'S NAME AND COMPLETE FOLLOWING INFORMATION (NO MINIMUM DEPOSIT REQUIRED):

NAME OF BANK: _____

ADDRESS OF BANK: _____

NAME OF ACCOUNT: _____

ACCOUNT NUMBER: _____

AFFIDAVIT

STATE OF: _____

COUNTY OF: _____

I, _____, the undersigned Applicant, after being duly sworn, deposes and says he is the applicant above named or is a member of the partnership, or an officer of the corporation in behalf of which the above application is made hereby swear or affirm that the statements are true in the foregoing application that is made for the purpose of inducing the issuance of the license requested and that the above contains the names of all persons associated with me and that I will be fully responsible for all license fees, renewals, and changes of name or address and remitting them to the Offices of the Tennessee Real Estate Commission as well as reporting change of status, and that I believe that the forgoing application and that such answers are true to the best of my knowledge.

Signature of Applicant: _____

Title of Applicant: _____

Sworn and subscribed to before me this _____ day of _____, 20____

Notary Public Signature: _____

My commission expires: _____

VACATION LODGING SERVICE INFORMATION and INSTRUCTIONS

1. TO OPEN A NEW FIRM YOU MUST;
 - a. Complete the firm application, have it notarized, and submit with \$100.00 fee.
 - b. Obtain and submit with the application a current zoning letter issued by your local planning commission indicating that a Vacation Lodging Service can be located and operate at the business address. If your local jurisdiction does not have zoning regulations, submit a letter from your local county or city mayor confirming that the jurisdiction does not have zoning regulation.
2. TO CHANGE THE ADDRESS OF AN EXISTING FIRM YOU MUST;
 - a. Complete TREC Form 1(ITEMS 1-4) for the firm
 - b. Obtain and submit with the application a current zoning letter issued by your local planning commission indicating that a Vacation Lodging Service can be located and operate at the business address. If your local jurisdiction does not have zoning regulations, submit a letter from your local county or city mayor confirming that the jurisdiction does not have zoning regulation.

NOTICE: ALL INFORMATION MUST BE SUBMITTED TO THIS OFFICE IN ORDER TO COMPLETE EITHER OF THE ABOVE REQUESTS. FAILURE TO SEND ALL INFORMATION AND/OR FEES WILL RESULT IN A DELAY IN PROCESSING.

DEFINITIONS:

- **TREC:** Tennessee Real Estate Commission
- **VACATION LODGING SERVICE:** the business of **providing** the services of **management, marketing, booking and rental** of residential units **owned by others** as sleeping accommodations furnished for pay to transients or travelers **staying NOT MORE THAN 14 DAYS**. **License** issued by TREC is **required**
- **ESCROW/TRUST ACCOUNT:** a bank account, **separate and apart** from the operating account, for the purpose of depositing, and maintaining until properly disbursed, all funds coming into possession of the Licensee that belongs to others
- **OWNER:** a person **for whom** the Licensee provides services described in Vacation Lodging Service as defined, in return for a specified portion of the revenue collected
- **CUSTOMER:** a transient or traveler **to whom** the Licensee provides services described in Vacation Lodging Services as defined
- **RESERVATION DEPOSIT:** funds received for a customer to **reserve** a unit **for future occupancy**
- **REVENUE:** **all funds** received to occupy an owner's unit including applicable reservation deposit previously received
- **RECONCILIATION:** procedure to assure **amounts held in trust** for others (deposits, unpaid owner payments, taxes, etc.) are **on deposit and available** in the escrow/trust bank account
- **COMMISSION:** that portion of revenue earned by the Licensee **at the end of occupancy** of an owner's unit by a customer, and **after** the **final accounting** with that customer

- **DESIGNATED AGENT:** a principal of the firm identified to TREC as **responsible** for completion of required training and who is personally responsible for all matters of the firm relating to TREC
- **DISCIPLINARY ACTION:** action taken by TREC, including but not limited to, reprimand, assessment of civil penalties, suspension or revocation of a license for violation of *Tennessee Code Annotated* 62-13-104
- **CONTRACT:** **written** document, dated and signed by all parties, that contains all aspects of the firm's **agreement** with that owner, including, but not limited to, rental rate(s), firm commission rate(s), date the payment is due owner, termination date of contract, markup or profit for expenses/maintenance, etc
- **BARTER/EXCHANGE:** **acceptance of goods or services** in exchange for services provided by Vacation Lodging Service, as defined
- **FIRM INFORMATION:**

All licenses for vacation lodging services expire on December 31 of each year, and are invalid on that date unless renewed. Licenses may be renewed on or before November 1 by remitting to TREC the fee as set by TREC together with proof of the existence of the firm's escrow/trust account satisfactory to TREC, and certification of satisfactory completion of training by the Designated Agent.

Change in firm name requires submittal of (a) the appropriate fee (b) a new notarized firm application (c) new information on the escrow/trust bank account if different from the original, and (d) return of the firm's existing license for issuance of a new license.

Change of firm location requires submittal of (a) the appropriate fee (b) a TREC Form 1 submitted within 10 days of the change, (c) a zoning letter from the local zoning official confirming compliance with local zoning laws and ordinances and (d) adequate facilities.

Change of Designated Agent requires notification in writing to TREC signed by both (a) the old Designated Agent releasing himself and (b) by the new Designated Agent accepting the duties and responsibilities. Each new Designated Agent must complete the required training prior to renewal.

In the event of a severed relationship between the firm and its Designated Agent, any required training received by that agent goes with the agent. Any appointment of a new Designated Agent requires notification to TREC and completion by the new Designated Agent of the required training.

A Designated Agent can serve in that capacity with only one firm at any given time.

The firm is subject to disciplinary action by TREC for the professional conduct of all officers, principals and employees.

A change in ownership or type of business organization (sole proprietorship, corporation, company, partnership, firm, association, or LLC), requires an application for a new license within 10 days of the change.

All books, accounts, documents, and records relevant to a determination of whether a licensee has properly deposited to, maintained and disbursed funds from the escrow/trust bank account, shall be

available to TREC or its representative(s) to examine and copy; and such records must include a period of at least three years at the business location address filed with TREC.

Complaint(s) against the firm, any employee, owner, or officer are required to be answered with a sworn statement to TREC within 10 days of receipt of the complaint by the Designated Agent.

If the firm or Designated Agent pleads guilty or nolo contendere, or is convicted of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses, the licensee must notify TREC within 60 days of that conviction and provide certified copies of that conviction. The license shall automatically be revoked 60 days after the conviction unless the licensee makes a written request to the Commission for a hearing during that 60-day period.

- **ESCROW/TRUST BANK ACCOUNT INFORMATION:**

An escrow/trust bank account must be maintained separate and apart from the operating account. The escrow/trust bank account, checks and accounting records shall be titled so as to indicate “escrow” account.

The firm must maintain proper records for at least 3 years on the escrow/trust bank account, including, but not limited to, bank statements, receipts, deposit and credit card slips, checks, vendor invoices and other documentation supporting receipt and/or use of funds received in the firm’s fiduciary capacity.

All funds received in the form of deposits to reserve an owner’s unit for future occupancy and/or to occupy an owner’s unit must be deposited to, and remain, in the escrow/trust bank account until a final accounting with the customer determines (a) any unearned amounts to be refunded or held as deposits (b) any earned commissions due the firm which may be disbursed immediately, and (c) that portion of revenue due the owner which must remain on deposit in the escrow/trust bank account until properly disbursed as agreed in the contract with the owner.

Collection and payment of taxes (sales, hotel/motel, etc.) may be made through the escrow account if proper accounting procedures are applied.

Payment from the escrow/trust bank account for an expense (i.e. maintenance, repair, mortgage, insurance, etc.) relating to a client’s unit must be as per written agreement with that client and must appear on the statement to the owner for the month payment was made. Any markup or profit on such expenses must be agreed to in writing and disclosed to the owner on the monthly statement.

No payment can be made from the escrow/trust bank account to or for an owner unless the account then contains sufficient funds held in trust for that client. When insufficient funds are held for the owner, the firm can choose (a) to make the payment from operating funds with subsequent reimbursement as the client has revenue available, or (b) not to make the payment.

Commissions due the firm are earned at the end of a customer’s stay. Earned commissions must be disbursed from the escrow/trust bank account and deposited to the firm operating bank account. Commissions may be disbursed as earned, but must be disbursed with a final payment coordinated at the end of each month’s accounting cycle.

Firm expenses are never to be paid to the vendor directly from the escrow account, but must be paid from the licensee’s operating funds.

Any bank fees or charges deducted from funds available in the escrow/trust bank account must be reimbursed from firm operating funds.

Acceptance of goods or services in exchange for a customer to occupy an owner’s unit must be as per agreement with that owner and reported on the owner’s monthly statement. A method of valuation, accounting for, and division of payment must be agreed upon, in writing, with the owner in advance of acceptance of the exchange.

- **RECONCILIATION OF FUNDS HELD IN TRUST:**

A reconciliation of funds held in trust to the amount available in the escrow/trust bank account should be done monthly, retained with other records for three years and available for review by the Commission or its representatives.

Accounting procedures should regularly determine the amount of funds held in the escrow/trust bank account as follows:

<u>Description of Funds Held</u>	<u>In Trust For</u>
Reservation deposits	Customer
Revenue from current occupants ¹	Customer
Unpaid Owner revenue ²	Owner
<hr/>	
<u>Minimum amount to be available in the escrow/trust bank account</u>	REQUIRED TOTAL
Other additional amounts that may be available:	
Firm commissions, earned and not disbursed ³	Firm
Taxes, if maintained in the escrow/trust account	City/County/State
<hr/>	
Total For Comparison to Bank Reconciliation	ADJUSTED TOTAL
	=====

A traditional bank reconciliation of (1) **Bank Balance plus** (2) **In-transit Deposit(s) minus** (3) **Outstanding Check(s) plus** (4) **Identified Bank Charges to be Reimbursed from Operating Funds equals** (5) **Reconciled Bank Balance**. This reconciled balance must be at least the Required Total above, but may include the additional mounts noted. Any unreconciled differences must be researched and cleared in a final reconciliation.

(Footnotes)

¹ Customers for whom there is no final accounting

² May include current month unpaid and prior month due and unpaid amounts due owners

³ If disbursements are less often than daily

Provisions of 62-13-10-104,
Relating to Vacation Lodging Services

(B) "Vacation lodging service" means any person who engages in the business of providing the services of management, marketing, booking and rental of residential units owned by others as sleeping accommodations furnished for pay to transients or travelers staying not more than fourteen (14) days.

(2) Each vacation lodging service shall be required to have a firm license but shall not be required to have a licensed real estate broker supervising such business. The application for such license shall be filed in the office of the real estate commission on such forms as the commission may prescribe and shall be accompanied by a fee for the issuance of such license as specified in § [62-13-308](#). A real estate firm license held by a real estate broker is deemed to satisfy the

license requirements of subsection (b).

(3) (A) Firm licenses for vacation lodging services shall be granted to all applicants who bear a good reputation for honesty, trustworthiness, integrity and competence to transact the business of providing vacation lodging services in such manner as to safeguard the interest of the public, and only after satisfactory proof of such qualifications has been presented to the commission. No license shall be denied any person because of race, color, religion, sex or national origin.

(B) Upon application for a firm license for a vacation lodging service and each renewal thereof, the firm shall designate one (1) individual from that firm who shall be responsible for the completion of training programs consisting of instruction in the fundamentals of subsection (b) and related topics. Every two (2) years, as a requisite for the reissuance of a firm license for a vacation lodging service, the firm shall furnish certification of completion of eight (8) classroom hours in training programs approved by the commission. No examination shall be required for the issuance or renewal of a firm license for a vacation lodging service.

(C) Upon application for a firm license for a vacation lodging service and each renewal thereof, the firm shall provide proof of the establishment of the firm's escrow account satisfactory to the commission. Every firm shall, in accordance with the rules promulgated by the commission under [§ 62-13-203](#), keep an escrow or trustee account of funds deposited with the firm relating to vacation lodging services. The vacation lodging service shall maintain for a period of at least three (3) years accurate records of such account showing:

- (i) The depositor of the funds;
- (ii) The date of deposit;
- (iii) The date of withdrawal;
- (iv) The payee of the funds; and
- (v) Such other pertinent information as the commission may require.

(D) (i) No funds shall be distributed from the escrow/trustee account until the customer's stay is complete, unless such distribution is in accordance with terms disclosed to the renter in writing at the time of making the reservation, or within a reasonable time thereafter not to exceed three (3) days, mailed to the renter through the United States postal service or transmitted to the renter via electronic mail, facsimile, or other tangible form of communication. Commissions earned by the firm and the revenue due owners shall be disbursed at least monthly. Funds held in escrow shall be disbursed in a prompt manner without unreasonable delay.

(ii) A vacation lodging service may be exempt from the requirements of subdivision (b)(3)(C) by submitting with its application for a firm license renewal an irrevocable letter of credit from a state or national bank or state or federal savings and loan association having its principal office in Tennessee; or any state or national bank or state or federal savings and loan association that has its principal office outside this state and that maintains one (1) or more branches in this state which are authorized to accept federally insured deposits. The terms and conditions of any irrevocable letter of credit shall be subject to the approval of the commission. At the discretion of the bank or savings and loan association, the form of such irrevocable letter of credit shall be provided by the bank or savings and loan association and may be based on either the Uniform Commercial Code, compiled in [title 47, chapter 5](#), or the ICC Uniform Customs and Practice for Documentary Credits (UCP 500). In lieu of the irrevocable letter of credit, the commission is authorized to accept equivalent security. The irrevocable letter of credit or equivalent security shall be in the amount of the vacation lodging service's average advanced monthly deposits or such other lesser amount as is reasonably determined by the commission to protect the renters and owners. The commission may draw upon the irrevocable letter of credit or equivalent security to reimburse renters or owners for funds owed to them by the vacation lodging service. The commission shall offer the vacation lodging service a contested case hearing under the Uniform Administrative Procedures Act, compiled in [title 4, chapter 5](#), before drawing upon the irrevocable letter of credit or equivalent security if the vacation lodging service continues to maintain the letter of credit or equivalent security during the contested case hearing process. If the vacation lodging service does not continue to maintain the irrevocable letter of credit or equivalent security during the contested case hearing process and the irrevocable letter of credit or equivalent security is subject to expiring during the contested case hearing process, the commission may draw upon the irrevocable letter of credit or equivalent security before conducting the contested case hearing. Where the commission draws upon the irrevocable letter of credit or equivalent security before conducting a contested case hearing, the commission shall offer the vacation lodging service a prompt hearing to be conducted before it distributes the proceeds.

(4) All firm licenses for vacation lodging services shall expire on December 31 of each year, and shall be invalid on that date unless renewed. Such licenses may be renewed on or before the expiration date by remitting to the commission the fee as set by the commission together with proof of the existence of the firm's escrow account satisfactory to the commission and certification of satisfactory completion of training pursuant to subdivision (b)(3)(B).

(5) Each vacation lodging service shall have an office at a fixed location with adequate facilities, located to conform with zoning laws and ordinances. Within ten (10) days after any change of location of such office, the vacation lodging service shall notify the commission in writing of the new business address.

(6) Whenever any person claiming to have been injured or damaged by the gross negligence, incompetency, fraud, dishonesty or misconduct on the part of any licensee following the calling or engaging in the business of providing vacation lodging services files suit upon such claim against such licensee in any court of record in this state and recovers judgment thereon, such court may as a part of its judgment or decree in such cases, if it deems it a proper case in which so to do, revoke the certificate of license granted hereunder, and such certificate of license shall not be

reissued to such licensee except upon the consenting vote of six (6) members in favor of such reissuance.

(7) (A) The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth a cause of action under this section, ascertain facts and, if warranted, hold a hearing for reprimand, or for the suspension or revocation of a license.

(B) The commission has the power to refuse a license for cause or to suspend or revoke a license where it has been obtained by false representation, or by fraudulent act or conduct, or where a licensee, in performing or attempting to perform any of the acts mentioned herein, is found guilty of:

(i) Making any substantial and willful misrepresentation;

(ii) Making any promise of a character likely to influence, persuade or induce any person to enter into any contract or agreement when the licensee could not or did not intend to keep such promise;

(iii) Pursuing a continued and flagrant course of misrepresentation or making of false promises through other persons, any medium of advertising, or otherwise;

(iv) Misleading or untruthful advertising, including use of the term "Realtor" by a person not authorized to do so, or using any other trade name or insignia or membership in any real estate association or organization, of which the licensee is not a member. No vacation lodging service doing business under the provisions of this subsection (b) may advertise or hold itself out as a full service real estate business. The authority of such business is limited to those activities described within this subsection (b);

(v) Failing, within a reasonable time, to account for or to remit any moneys coming into the licensee's possession which belong to others;

(vi) Failing to preserve for three (3) years accurate records of the firm's escrow account as prescribed by subdivision (b)(3)(C);

(vii) Failing to furnish a copy of any contract to provide vacation lodging services to all signatories thereof at the time of execution;

(viii) Using or promoting the use of any contract to provide vacation lodging services for a residential unit which fails to specify a definite termination date;

(ix) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses, or pleading guilty or nolo contendere to any such offense or offenses;

(x) Violating any federal, state, or municipal law prohibiting discrimination in the rental of real estate because of race, color, religion, sex or national origin;

(xi) Violating any provision of this subsection (b) or the terms of any lawful order entered by the commission;

(xii) Engaging in the unauthorized practice of law; or

(xiii) Any conduct, whether of the same or a different character from that hereinbefore specified, which constitutes improper, fraudulent or dishonest dealing.

(C) The director of the division of regulatory boards or the director's duly authorized representatives may, at all reasonable hours, examine and copy such books, accounts, documents, or records as are relevant to a determination of whether a licensee has properly maintained and disbursed funds from escrow or trustee accounts herein required. In the case of refusal to permit the access accorded by this subsection, the director or the director's authorized representatives may pursue the remedies provided by [§ 4-5-311\(b\)](#) for disobedience to any lawful agency requirement for information. Such refusal shall also constitute grounds for the commission to suspend or revoke a license.

(D) Whenever any licensee pleads guilty or is convicted of any criminal offense enumerated in this section, the licensee must within sixty (60) days notify the commission of that conviction and provide the commission with certified copies of the conviction. The licensee's license shall automatically be revoked sixty (60) days after the licensee's conviction unless the licensee makes a written request to the commission for a hearing during that sixty-day period. Following any such hearing held pursuant to this section, the commission in its discretion may impose upon that licensee any sanction permitted by this section.

(8) (A) (i) Before refusing to issue a license or suspending or revoking an existing license upon the verified written complaint of any person setting out a cause of action under subdivision (b)(7), the commission shall, in writing, notify the accused applicant or licensee of its receipt of the complaint, enclosing a copy.

(ii) The accused applicant or licensee shall, within ten (10) days, file with the commission the applicant's or licensee's answer to the complaint, a copy of which shall be transmitted to the complainant.

(iii) If, after investigation, the commission determines that the matter should have a hearing, a time and place therefor shall be set.

(B) All notices and answers required or authorized to be made or filed under this subsection may be served or filed personally, or by registered mail, to the last known business address of the addressee. If served personally, the time shall run from the date of service and if by registered mail, from the postmarked date of the letter enclosing the document.

(C) The affirmative vote of a majority of the commission shall be necessary to reprimand a licensee or revoke or suspend a license.

(D) In the event that the matter contained in the complaint shall have been filed or made a part of a case pending in any court in this state, the commission may then withhold its decision until the court action has been concluded.